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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS DEEDS

Appeal 2009- 005382
Application 10/714,504
Technology Center 2100

Decided¹: December 17, 2009

Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
THU A. DANG, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ On Nov. 13, 2009, Appellant waived the requested oral hearing. Therefore, we decided the appeal on the Briefs.

I. STATEMENT OF THE CASE

The patent Examiner rejects claims 1-4, 7, 8, 10, 12-15, and 17-25. Claims 5, 6, 9, 11 and 16 are cancelled. Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We Affirm-in-part.

A. INVENTION

The invention at issue on appeal relates generally to a manner by which to facilitate viewing of display indicia displayed upon a user display of a portable communication device, such as a cellular mobile station.

More particularly, the present invention relates to user interface apparatus, and an associated method, by which to display selected indicia characters in enlarged form to facilitate their viewing by a visually-impaired user.

The display indicia characters are displayed at a size sufficiently large for the user to be able better to perceive the character while also noting the position of the character in a sequence of display indicia characters in which the enlarged character is positioned. A user display is divided into portions. At a first portion, the sequence of display indicia characters is displayed. And, at a second portion, a single one, or a single set, of the display indicia characters is displayed in enlarged form. The user is better able thereby both to view the display indicia characters and also to recognize its context, i.e., its location in a sequence of characters.

(Spec. 1).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows.

1. In a portable communication device operable in a communication system, an improvement of a user interface apparatus for facilitating viewing display indicia thereat by a visually-impaired user said user interface apparatus comprising:

receiving circuitry configured to receive the display indicia in a wireless manner;

a display screen having a first screen portion and at least a second screen portion, the first screen portion for selectably displaying a first selected part of the display indicia at a first display-indicia size and the second screen portion for selectably displaying a first selected portion of the first selected part of the display indicia at a second display-indicia size; and

a user display screen manager adapted to receive indications of the display indicia to be visually displayed, said user display screen manager for selecting which part of the display indicia to comprise the first selected part displayed at the first screen portion of said display screen and which portion of the first selected part of the display indicia to comprise the first selected portion displayed at the second screen portion and to manage display of the first selected part and first selected portion, respectively, at respective ones of the first and second screen portions of said screen display, wherein the user display screen manager is adapted to sequentially display portions of the part of the received display indicia visually displayed in the first screen portion of the display in the second screen portion of the display.

C. REFERENCES

The Examiner relies on the following references as evidence:

Tachibana	US 6,288,702 B1	Sept. 11, 2001
Bast	US 2005/0114796 A1	May 26, 2005
Iwai	US 7,064,858 B2	Jun. 20, 2006
Kelts	US 7,139,983 B2	Nov. 21, 2006

D. REJECTIONS

Claims 1-4, 7, 12-15, 17-22, 24, and 25 stand rejected under 35 U.S.C. 103 § (a) as being unpatentable over Bast in view of Tachibana

Claims 8 and 10 stand rejected under 35 U.S.C. 103 § (a) as being unpatentable over Bast in view of Tachibana further in view of Iwai.

Claim 23 stands rejected under 35 U.S.C. 103 § (a) as being unpatentable over Bast in view of Tachibana in view of Kelts.

II. ISSUE

Has Appellant shown error in the Examiner's initial showing of obviousness? Specifically, has Appellant shown that Tachibana does not teach or suggest sequentially displaying in a second screen area prior entered characters that are larger in size than a first size?

Has Appellant shown error in the Examiner's initial showing of obviousness of dependent claims 12, 24, and 25?

III. PRINCIPLES OF LAW

Prima Facie Case of Unpatentability

The allocation of burden requires that the United States Patent and Trademark Office (USPTO) produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967)). The Examiner bears the initial burden of presenting a prima facie case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Appellants have the opportunity on appeal to the Board of Patent Appeals

and Interferences (BPAI) to demonstrate error in the Examiner's position.
See In re Kahn, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

Obviousness

A claimed invention is not patentable if the subject matter of the claimed invention would have been obvious to a person having ordinary skill in the art. 35 U.S.C. § 103(a); *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 13 (1966). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art. *Graham*, 383 U.S. at 17-18. *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.")

IV. ANALYSIS

With respect to independent claim 1, Appellant contends that the Examiner has not provided an articulated reasoning with a rational underpinning sufficient to support the combination of Bast and Tachibana with respect to independent claims 1, 17, and 21. (App. Br. 10-12). We disagree with Appellant and find that the combination of teachings of Bast and Tachibana is adequate to teach and fairly suggest the claimed invention of independent claim 1. While the Examiner starts the statement of the rejection with the Bast reference, the Examiner relies upon Tachibana for a majority of the claimed user interface. (Ans. 3-5).

From our review of the Examiner's rejection and the teachings of Bast and Tachibana, we find that the interface of Tachibana teaches and fairly suggests the claimed user interface but for use in a portable communication device (merely recited in the preamble) which is not clearly set forth in the structure of the portable computer of Tachibana. But Bast clearly teaches the desire/motivation to magnify data for a telephone with an improved man-machine interface.

Additionally, Bast teaches that the term mobile telephone "should be expansively construed to cover any kind of mobile device with communications capabilities and includes radio telephones, smart phones, communicators, and wireless information devices." (Bast, ¶ [0001]). Therefore, we find Appellant's arguments concerning the combination and lack of motivation to be unpersuasive of error in the Examiner's initial showing of obviousness of independent claim 1.

Appellant further contends that independent claim 1 recites the feature "wherein the user display screen manager is adapted to sequentially display portions of the part of the received display indicia visually displayed in the first screen portion of the display in the second screen portion of the display" and this feature is not disclosed by the combination of Bast and Tachibana. (App. Br. 12-13).

Appellant contends that Tachibana fails to even contemplate sequentially displaying portions of the part of the received display indicia visually displayed in the first screen portion of the display in the second screen portion of the display. (App. Br. 13). Appellant contends there is nothing in Tachibana that suggests "a screen manager is adapted to sequentially display portions of that what is displayed in the first screen

portion and a second screen portion. Instead, Tachibana merely discloses allowing the user to view the characters that the user is inputting in an enlarged manner.” *Id.* We disagree with Appellant’s contentions wherein Tachibana, column 5, lines 38-44, discloses both the character input function and also the user operating the cursor to move the caret vertically and horizontally whereby a skilled artisan would understand that the user may thereby view previously entered characters. For example, in figure 9 in step B10 determines the enlargement display area from the entire screen image information which would not be required if only the input character were to be limited in the disclosure of Tachibana.

We find the language of independent claim 1 does not preclude the use of user interaction with the device. Furthermore, the claim language does not expressly recite that the screen manager “automatically sequentially” display portions, and we further note that the dependent claim 12 (addressed below) comes closer to setting forth an automatic function by reciting additional steps performed by the user display screen manager.

We find that Tachibana teaches and fairly suggests an interface for the user which Appellant has admitted is taught which allows the user to view inputted characters in a sequential manner in an enlarged manner in a second portion of the display, and we find the teachings in column 5 and figure 9 to further teach and fairly suggest that prior entered characters may be viewed in a sequential manner.

Appellant further argues that the screen manager is “adapted to sequentially display portions,” and attempts to distinguish that limitation from the use of user interaction. (App. Br. 13). We find Appellant’s argument to be attenuated since Appellant’s claim language does not

necessarily recite that the screen manager actually performs the function automatically and without any user interaction and thereby allows the Examiner room for interpretation such as with user interaction as taught by Tachibana and applied by the Examiner. (Answer 15-17). Therefore, we find Appellant's argument to be unpersuasive of error in the Examiner's initial showing of obviousness.

Appellant argues "[t]o the extent the Examiner is reading the user moving the caret as meeting the features of claim 1, plainly such a system fails to disclose 'the user display screen manager is adapted to sequentially to display portions' because in such a system the screen manager is not so adapted, the user is the one manually selecting the portion of the display." (App. Br. 13-14). We disagree with Appellant's oversimplification of the system of Tachibana wherein Tachibana in figures 7 through 9 clearly show method steps which would be carried out by the system which works with user inputs and system evaluations to evaluate the totality of the information and to present the appropriate information to the user in the manner desired by the user.

Therefore, we disagree with Appellant, and find that Tachibana teaches a user display screen manager which is adapted to sequentially display portions as claimed. Therefore, Appellant's argument does not show error in the Examiner's initial showing of obviousness, and we sustain the rejection of independent claim 1 and dependent claims 2-4, 7, 13-15 which have not been separately argued.

With respect to independent claim 17, Appellant contends that the method recites where one or more indicia are displayed in a non-enlarged manner in a first screen portion of a display prior to being displayed in an

enlarged manner in the second screen portion. (App. Br. 14). As discussed above with respect to independent claim 1, we find that Tachibana, in column 5 and figure 9, teaches and fairly suggests that the caret (selection display window) may be moved vertically and horizontally and this would allow prior entered/displayed characters to be displayed in an enlarged second portion of the display. Therefore, we find Appellant's argument to be unpersuasive of error in the Examiner's initial showing of obviousness, and we sustain the rejection of independent claim 17 and dependent claims 18-20.

With respect to independent claim 21, Appellant argues that the claim recites "sequentially displaying in a second screen area of the display the plurality of characters of the text message in the first part, the characters being displayed at a second size that is larger than the first size." (App. Br. 16). Appellant contends that Tachibana makes no mention, suggestion or teaching of doing it two sequential displaying steps. (*Id.* at 16-17). We disagree with Appellant, as discussed above. Clearly, the input characters of Tachibana are information which makes it text and it is a message. Therefore, it is a "text message" made up of a plurality of characters. As discussed above, the caret may be moved vertically and horizontally which would allow sequential viewing/displaying of plural characters of the text message from the first part in a second part at a second size that is larger than the first size. Therefore, we find Appellant's argument unpersuasive of error in the Examiner's initial showing of obviousness, and we sustain the rejection of independent claim 21 and dependent claims 22 and 23 which have not been separately argued.

Dependent claims 12, 24, and 25

Appellant argues that the Examiner has not presented a sufficient initial showing of obviousness for dependent claim 12 wherein the portions of Bast and Tachibana relied upon by the Examiner do not show “[a] user display screen manager is adapted to successively reselect at successive selection intervals . . .” as claimed. (App. Br. 17). We agree with Appellant that the limited citation by the Examiner in the Answer does not teach or fairly suggest the claimed feature. Appellant further argues in the Reply Brief that the Examiner does not respond to Appellants’ contentions in the Answer. We agree with Appellant that the Examiner does not address any of Appellant’s contentions with respect to dependent claims 12, 24, and 25. Therefore, Appellant has shown error in the Examiner’s initial showing of obviousness of dependent claims 12, 24, and 25, and we reverse the Examiner’s rejection thereof.

V. CONCLUSION

For the aforementioned reasons, Appellant has not shown that error in the Examiner’s initial showing of obviousness of independent claim 1, 17, and 21. Appellant has shown that the Examiner erred in rejecting dependent claims 12, 24, and 25 under obviousness.

VI. ORDER

We affirm the obviousness rejection of claims 1-4, 7, 8, 10, 13-15, and 17-23, and we reverse the obviousness rejections of claims 12, 24, and 25.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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